IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

Tr.P(Crl.).No. 85 of 2007()

CC.439/2004 of CHIEF JUDICIAL MAGISTRATE COURT,THRISSUR

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PETITIONER:

K.O.ANDREWS, AGED 63 YEARS,S/O.K.T.UNNI,
KALATHIL HOUSE,PARAVASSERY P.O,PALAGHAT DISTRICT.

BY ADV. SRI.PAUL MATHEW

RESPONDENTS:

STATE OF KERALA REPRESENTED BY DY.S.P
C.B.C.I.D, PALAKKAD.

BY ADV. SRI. GIKKU JACOB, PUBLIC PROSECUTOR

THIS TRANSFER PETITION (CRIMINAL) HAVING COME UP FOR ADMISSION ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Tr.Ptn.No. 85 of 2007

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Dated this the 12th day of November, 2007

ORDER

Application for transfer. Petitioner is the 1st accused in a prosecution pending before the learned Chief Judicial Magistrate, Thrissur for offences punishable, inter alia, under Section 420 and 471 IPC. The crux of the allegations is that at the instance of the petitioner -A1, the 2nd accused impersonated as CW12 and executed documents. Investigation is complete. Final report has already been filed. The matter is pending before the Chief Judicial Magistrate Court, Thrissur as C.C.No.439/2004. The 1st accused is no more and only the petitioner faces trial now. Altogether there are only two accused persons.

2. The petitioner has now come to this Court with a prayer that the case pending before the Chief Judicial Magistrate Court, Thrissur may be transferred to the Court of Chief Judicial Magistrate Court, Palakkad or any other court.

3. What is the reason? The short reason urged is that the petitioner is ill and that he is not able to move about. If

insistence were made on the personal presence of the petitioner, it would cause hardship and loss to the petitioner. In these circumstances, it is prayed that the case may be transferred to suit the convenience of the petitioner.

4. I am not persuaded to agree that the matter deserves to be transferred. It is for the petitioner to appear before the learned Magistrate on the dates when his personal presence is indispensable. On all other dates he can claim that he may be permitted to be represented by his counsel. Appropriate application to that effect duly supported by materials to justify such reasons can be filed by the petitioner before the Chief Judicial Magistrate Court, Thrissur. The learned Chief Judicial Magistrate, Thrissur needless to say must consider such application on merits and in accordance with law. Personal presence of the petitioner need be insisted only if it is absolutely essential and vital for the further progress of the case. The learned Chief Judicial Magistrate, Thrissur , if he is satisfied about the illness of the petitioner, must certainly ensure that all witnesses for whose evidence, the personal presence of the petitioner is essential are summoned together on the same day

and immediately succeeding dates and the trial against the petitioner is completed as expeditiously as possible. To suit the convenience of the petitioner, I am of opinion that it is not necessary to shift the venue of trial. Appropriate requestS can be made by the petitioner before the the learned Chief Judicial Magistrate, Thrissur. The learned Magistrate must consider such requests and pass appropriate orders in accordance with law.

With the above observations, this petition is dismissed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE